IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 247 OF 2007

Zakair Sirajuddin Shaikh ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. S.V. Kotwal, Advocate for the applicant.

Mr. Y.S. Shinde, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 5TH FEBRUARY, 2007.

P.C.

. Heard Mr. Kotwal, learned Counsel for the applicant and Mr. Shinde, APP for the State. The applicant seeks to be released on bail in Crime No.499/2006 registered at Wanwadi Police Station for the offences punishable under Sections 376, 313,506, 392 of Indian Penal Code. According to him, he had married the prosecutrix Rabia shaikh, whose name before marriage was Shobha Revan Waghmare on 26/12/2003. He had also given divorce to her on 7th August, 2006. After that she lodged a report dated 14/12/2006 with police alleging rape on her. The applicant claims to be innocent.

2. As per the FIR, the prosecutrix was in service of the present applicant, who was running business as "M/s Basera Developers and Builders". On 19/10/2001 taking opportunity of loneliness the accused/applicant allegedly committed rape on her and also threatened with dire consequences, if she disclosed the fact to anybody. He also promised to marry her. Two days after that he went to the house of parents of the prosecutrix and again assured her that he would marry her. Due to this assurance she came back to the job. Thereafter also, their sexual relationship continued for a long time. She continued in his service upto June, 2006. During that period on three occasions she was required to abort and on one occasion she gave birth to twins, who died on next day of birth. According to her, on 9/8/2006 she was not allowed to enter in the office. On 7/8/2006 he had taken her forcibly to Cantonment Court and had obtained her signature on Talaq Nama. The report about this offence was lodged on 14/12/2006. From the contents of the FIR, it appears that even though on 19/10/2001, initially she was allegedly raped by the applicant, thereafter for a period of more than four and half years she continued sexual relationship with him and also lived in the house provided by him. In these

circumstances, without going into the merits of this case, I find that it is a fit case for grant of bail.

3. The applicant/accused be released on his executing P.R. of Rs. 25,000/- with surety in like amount on conditions that he shall not tamper with the prosecution evidence and shall not misuse the bail in any manner.

(J.H. BHATIA, J.)